

IN THE CLAIMS

Please amend the claims as follows, a markup copy follows this clean copy as required under 37 CFR 1.121:

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45. (Twice Amended) A method of measuring a rate of encoding for digital content, the method in a first program comprising the steps of:

- selecting an encoding algorithm and a bit rate;
- encoding a selected sample of digital content for a predetermined period of time;
- calculating a measured rate of encoding using the selected sample and the predetermined period of time, so as to provide an interim rate of completion for a subsequent process of encoding the content with the algorithm and the bit rate which has been selected; and
- transferring the measured rate of encoding to a second program for monitoring the rate of encoding in a batch process.

50. (Twice Amended) A method of measuring a rate of encoding for digital content, the method in a first program comprising the steps of:

- determining if a previously calculated measured rate of encoding has been stored for a specific encoding algorithm and a bit rate and if the previously calculated measured rate of encoding is stored then performing the sub-steps of:
 - retrieving a previously calculated measured rate of encoding so as to provide an interim rate of completion for a subsequent process of encoding the content with the specific encoding algorithm and the bit rate;
 - encoding digital content;
 - calculating a current measured rate of encoding for the encoding of the digital content so as to provide an interim rate of completion for encoding; and
 - updating the previously calculated measured rate of encoding using the current measured rate of encoding.

transferring the measured rate of encoding to a second program for monitoring the rate of encoding in a batch process.

57. (Twice Amended) A method of measuring a rate of encoding for digital content, the method in a first program comprising the steps of:

- selecting an encoding algorithm and a bit rate;
- encoding a selected sample of digital content;
- calculating a measured rate of encoding using the selected sample and an amount of time it took to encode the selected sample so as to provide an interim rate of completion for a subsequent process of encoding the content with the algorithm and a bit rate which has been selected; and

transferring the measured rate of encoding to a second program for monitoring the rate of encoding in a batch process.

58. (Twice Amended) A system for measuring a rate of encoding for digital content in a batch process, the system comprising:

a first program including:

- a receiver for receiving digital content to be encoded;
- an encoder for encoding a selected sample of the digital content for a predetermined period of time using an encoding algorithm and bit rate;
- means for calculating a measured rate of encoding using the selected sample of digital content and the predetermined period of time so as to provide an interim rate of completion for a subsequent process of encoding the content with the algorithm and the bit rate; and
- means for transferring the measured rate of encoding to a second program for monitoring the rate of encoding.

63. (Once Amended) A system for measuring a rate of encoding for digital content in a batch process, the system comprising:

a first program including:

means for retrieving a previously calculated measured rate of encoding so as to provide an interim rate of completion for a subsequent process of encoding the content with a specific encoding algorithm and a bit rate;

an encoder for encoding digital content;

means for calculating a current measured rate of encoding of the digital content;

means for updating the previously calculated measured rate of encoding based on the current measured rate of encoding; and

means for transferring the measured rate of encoding to a second program for monitoring the rate of encoding.

71. (Twice Amended) A system for measuring a rate of encoding for digital content in a batch process, the system comprising:

a first program including:

a receiver for receiving digital content to be encoded;

an encoder for encoding a selected sample size of the digital content;

means for calculating a measured rate of encoding rate using the selected sample size of digital content and the period of time it took to encode the selected sample size of digital content so as to provide an interim rate of completion for a subsequent process of encoding the content with an algorithm and a bit rate which has been selected; and

means for transferring the measured rate of encoding to a second program for monitoring the rate of encoding.

72. (Twice amended) A computer readable medium containing program instructions for determining an encoding rate for digital content in a batch process, the program instructions for a first program comprising instructions for:

- selecting an encoding algorithm and a bit rate;
- encoding a selected sample of digital content for a predetermined period of time;
- calculating a measured rate of encoding using the selected sample and the predetermined period of time so as to provide an interim rate of completion for a subsequent process of encoding the content with the algorithm and the bit rate which has been selected; and
- transferring the measured rate of encoding to a second program for monitoring the rate of encoding.

78. (Twice Amended) A computer readable medium containing program instructions for measuring a rate of encoding for digital content in a batch process, the program instructions for a first program comprising instructions for:

- encoding a selected sample of digital content;
- calculating an encoding rate using a selected sample size and the amount of time it took to encode the selected sample so as to provide an interim rate of completion for a subsequent process of encoding the content with an algorithm and a bit rate which has been selected; and
- transferring the measured rate of encoding to a second program for monitoring the rate of encoding.